

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA §  
§  
v. § CRIMINAL NO. 4:07cr164  
§  
KENNETH JOSEPH LUSEZ (7) §

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 14, 2016 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Tom Gibson.

On June 3, 2008, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of 137 months imprisonment for Conspiracy to Possess With Intent to Distribute Cocaine Base, followed by a 5-year term of supervised release. On February 22, 2012, the term of imprisonment was reduced to 92 months pursuant to 18 U.S.C. § 3582(c)(2). Defendant began his term of supervision on December 1, 2015.

On July 11, 2016, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 559). The Petition asserts that Defendant violated the following conditions of supervision: Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.

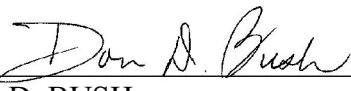
The Petition alleges that Defendant committed the following violations: on December 7, 2015, Defendant submitted a urine specimen that tested positive for methamphetamine, and subsequently, Mr. Lusez verbally admitted to using illicit substances a few days prior.

At the hearing, Defendant entered a plea of true to the allegation that he submitted a urine specimen which tested positive for methamphetamine. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

### **RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments and testimony presented at the July 14, 2016 hearing regarding the agreement reached by the parties, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seven (7) months, to run concurrently with the sentence in 6:14cr65, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Seagoville Bureau of Prisons facilities, if appropriate.

**SIGNED this 15th day of July, 2016.**



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DON D. BUSH  
UNITED STATES MAGISTRATE JUDGE